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THE ARABIC PORTION OF THE CAIRO GENIZAH AT CAMBRIDGE.

(Eighth Article.)

XXIII.

AN UNKNOWN WORK BY MAIMONIDES.

PAPER, two leaves, 19 × 14 cm. Orient. Rabb. Char.

The fragment to be discussed in this article belongs to a hitherto unknown work of legal character, or, more definitely expressed, a digest of the six hundred and thirteen canonical laws. An examination of the meagre relic discloses the interesting fact that the author of the work in question could have been no other than Moses Maimonides. Conclusive evidence of this will be found in the following.

The arrangement of the paragraphs follows the sequence of ordinances in the Pentateuch, but only three of them are complete. Nearly the whole of par. 38 (Exod. xxiii. 2 b), 39 (ibid., a), the last part of pars. 49 (ibid., 13 b), 50 (ibid., c), 51 (ibid., 14), 52 (ibid., 15 a), and the beginning of par. 53 (ibid., b) are preserved. The main argument for the authenticity of the work is derived from par. 38 which contains references made, in the first person, to all of Maimonides' legal works, with the exception of his commentary on the Mishnah. The next paragraph contains the words: "We have explained," but the references are

unfortunately missing, although there can be no doubt that they were the same as in the previous paragraphs. They are regularly repeated in the other paragraphs, being introduced by the words: "Thou wilt find," &c. The numbers quoted tally exactly with those of the BC¹, and the shorter enumeration of laws embodied in the introduction to the Mishnēh Tōrāh.

Now this evidence is somewhat strengthened by the concordance of a few passages in the fragment with those in the quoted paragraphs of the BC.

The Fragment.

BC.

- | | | | |
|-----|----------------------------|-----------|-------------------------|
| 38. | עלי נהה אלתקליר לה | neg. 283. | עלי נהה אלתקליר לה |
| 39. | וקע בינה ובין אלבקיח אלכלף | pos. 175. | וקע אלאכתלאף בין אלעלמא |
| 49. | לעבורה זרה ולו לעבארהא | neg. 14. | לעבורה זרה ולו לעבארהא |

The foregoing arguments justify the conclusion that Maimonides, having completed the BC, compiled a short abstract of the same work, rearranging the paragraphs in the order alluded to above. Apart from this work he seems to have compiled a third, which was divided into two parts, separating the regulations now in force from those in abeyance. We gather this from paragraphs 51 and 52. Had it been the work of another author, his name would have been mentioned, although, of course, this might have been done in one of the earlier paragraphs. The omission of the commentary on the Mishnah among the books referred to may lend support to the theory, upheld by M. Bloch², that this work did not, at that time, exist.

A similar arrangement of the laws to that in our fragment is given in the ספר החינוך of Aaron Hallēvi of

¹ *Book of Commandments*. For quotations, see the edition of the Arabic original by M. Moïse Bloch. Paris, 1888.

² Préface, p. vii.

Barcelona (13th cent.). The great discrepancies in the numbers are, however, shown in the following comparison :

The Fragment.	ספר החינוך.
38	76 + 77
39	78
49	86
50	87
51	88
52	10
53	490

Finally, there is a word to be said on the title, "Book of Commandments." In our fragment this title obviously only refers to what is commonly known as *מנין המצות*, whilst the larger work has no title at all, but is only referred to in its two divisions of commandments and prohibitions. It is likewise interesting to observe that in the quotations of the *Mishnēh Tōrāh*, the author does not mention this title, and only deals with the superscriptions of the single books. All this tends to strengthen the conviction that it was Maimonides himself who here quoted his own writings and no other author.

T-S. 8 Fa. 1².

Fol. 1
recto.

קדאמה בחכם והו עלי ראי אלרבים אלרעים וכנא נקדִר אלנץ הכדא
ולא תענה על אותו הריב לנמות בו אחרי רבים הרעים ולהטותו ממשפטי
התורה בל ביין לנא אלנקל אלצחיה אן קולה ולא תענה על ריב הו נהי
ללחאכם אן יתבע רפיקה אלגאלס מעה פי חכם עלי נהה אלתקליר לה פי
חיוב ותקדיר אלנץ לא תענה על ריב לנמות בו אחרי האדם הגדול בשופטים
כי אם אחרי הרבים החולקים עמו אתה נוטה תם ביינוא אן תחת הדיא
אלנהי איצא אן לא ילמד חובה מן כאן קד לימד זכות בדיני נפשות אן
קולה אחרי רבים לים הי תתמֶה הדיא אלגרץ אלא מצות עשה אכרי קאימה
בדאתהא כמה נביין דלך וקד ביינת הדיא אלגרץ פי אלמצוה אלתאלתה
ותמאנין ומאית[ין] ממצות לא תעשה והי כמתל הדיא אלערד פי ספר מצות
ופי ספר שופטים בהלכות סנהדרין והענשין המסורין להם

verso.

לֹא קוֹלָה אַחֲרֵי רַבִּים לְהַטּוֹת קֶאֱלוּ זֶל אֵן אֵן דִּלְךָ אֵינְא תַתְּמָהּ לְמֵא
קְבֵלָה אֵלֹא הוּא אִמֵּר קֵאִים בְּדִאתָה לְלַחֲאֲכֵם פִּי אֵן לֹא יַחֲכִמוּ¹ אֵלֹא עָלִי
רֵאִי אֲלֵאכְתֵּר אֲלֹדִי וְקַע בִּינָהּם וּבִין אֲלִבְקִיָּה אֲלִכְלֵף פִּי דִלְךָ אֲלַחֲכֵם וְקֵד בִּינָא
הִדֵּא אֲלִגְרִין פִּי . . .

. והוא אן לא יחלף לעבודה זרה ולו לעבארהא וכדלך לא יחלפהם בהא Fol. 2
recto.
אדא ונב לה עליהם ימין ותנך דלך פי אלמצוה אלאבעה עשר ממצות
לא תעשה ופי ספר מצות כמתל הדא אלעדר ופי ספר מדע בהלכות עבודה
זרה:

ז קולה עז ונל לא ישמע על פוך נא אלנקל אנה נהי ללמדריה ותנך דלך
פי אלכאמסה עשר ממצות לא תעשה והי כמתל הדא אלעדר פי ספר
מצות ופי ספר מדע בהלכות עבודה זרה.

נא קולה תע שלש רגלים תחוג לי בשנה פי אלמצוה אלאחריה ותלאחין
ממצות עשה שאינה נוהגת בזמן הזה ופי ספר מצות פי אלתאלתה
וכמסין ופי ספר קרבנות בהלכות חגיגה

נב קולה חע שבעת ימים תאכל מצות ונ קד ביינא פי פרשת השכם אן
לזום אבל אלמצוה אנמא הו לילה ואחדה והי לילה חמישה עשר ובסמת
הנאך הדא אלגרין פאנטרה והזה אלמצוה הי פי אלתאלתה וסתין ממצות
עשה הנוהגת בזמן הזה ופי ספר מצות פי אלתאמנה וכמסין ומאיה ופי
ספר זמנים בהלכות חמץ ומצה

נז קולה עז ונל ולא יראו פני רקם ביין אלנקלא . . .

TRANSLATION.

[38.] We interpret the text (Exod. xxiii. 2 b) thus: Thou shalt not speak in the same cause to turn aside in it after a multitude of evil-minded persons, to turn it from the decisions of the law. True tradition makes it clear for us that the words, *Thou shalt not speak in a cause*, entail an injunction for the judge not to follow his colleague in court in the way of adopting his view when he convicts [the accused]. The words of the Bible text mean to convey: Thou shalt not speak in a cause, adopting the view of the greatest man among the judges, but thou shouldst turn after the majority who are of different opinion. The Sages explain that this prohibition also includes the other, not to convict in a penal case, if the accused had been found not guilty before. The injunction, *After a multitude, &c.*, is not accessory to the previous one, but another, and independent,

¹ Above the line יקדעו.

ordinance, as we will explain. I have already explained this matter in No. 283 of the "Prohibitions," and in the "Book of Commandments" under the same number; and in the "Book of Judges"¹, among the regulations concerning the punitive powers of the Sanhedrin.

39. The command: *To turn after a multitude* is explained by the Sages thus: This again is no supplement to the preceding command, but an independent injunction to the judges only to decide according to the opinion of the majority, if there exists a difference between this and the rest [of judges] in this matter. We have explained this subject².

[49.] he shall not swear by idols even for idolaters, nor shall he cause them to swear by it if they owe him an oath. Thou findest this in No. 14 of the Prohibitions, and in the BC under the same number, and the *Book Maddā'*³ in the regulations concerning idolatry.

50. *Let it not be heard out of thy mouth.* Tradition explains that this refers to one who leads astray [the inhabitants of a city to idolatry]. Thou findest this in No. 15 of the Prohibitions, and under the same number in the BC, and in the *Book Maddā'* in the regulations concerning idolatry.

51. *Three times thou shalt keep a feast unto me in the year.* See No. 31 of the ordinances which are now obsolete, No. 53 of the BC, and the "Book of Sacrifices"⁴ among the regulations concerning the festival offering.

52. *Seven days thou shalt eat unleavened bread.* We have already explained in the chapter *hashkēm*⁵ that the duty of eating unleavened bread only applies to the night of the fifteenth [of Nisān]. I treated the matter there in detail.

This command forms No. 63 of those still in force, No. 158 of the BC, and in the Book of the Feasts⁶ among the regulations concerning leavened and unleavened bread.

53. *None shall appear before me empty.* The traditionists explained this

¹ *Mishnēh Tōrāh*, Book XIV.

³ *M. T.*, Book I.

⁵ Exod. ix. 13 sqq., cf. מן החיט, No. 10.

² BC, I, par. 175.

⁴ *M. T.*, Book IX.

⁶ *M. T.*, Book III.